

AGENCY MEMBERS PRESENT

Atchley, Bryan, Vice Chair
Flowers, Paula, Commissioner of Commerce and Insurance
Collier, David, M.D., designee for the TennCare Director
Handorf, Charles, M.D.
Jones, Clark
Koella, Carl, III,
Lammert, Gregory
Troy, Peggy
Weaver, Faye, designee for the Comptroller of the Treasury

AGENCY MEMBERS ABSENT

Caldwell, Gene, M.D., Chair

AGENCY STAFF PRESENT

Hill, Melanie, Executive Director
Bobbitt, Melissa, Administrative Services Assistant II
Brogden, Reid, General Counsel
Christoffersen, Jim, Deputy General Counsel
Farber, Mark, Assistant Executive Director
Finchum, Rhonda, Office Manager
Wells, Phil, Health Planner III

COURT REPORTER

Wilson, Kathy

GUESTS PRESENT

Baker, E. Graham, Esq., Weeks, Anderson, & Baker
Beuerlein, John, M.D., Associate Medical Director, Select-Knoxville
Biggs, Jeremy, Vice President, St. Mary's Health System
Brent, Michael D., Esq., Boulton, Cummings, Connors & Berry, PLC
Brown, Dere, NHC
Brunson, Mike, M.D., Pulmonary Program Director, Select North Knoxville
Bryan, Jack, COO, St. Mary's Health System
Carruth, John, Administrator, West Tennessee Healthcare
Church, Bill, MSROL
Corritore, Danell, Department of Health
Culp, Joe, Department of Health
Day, Ed, Consultant
Delph, Benjamin, Bass, Berry & Sims
Phil Dugan, M.D., Radiology Oncology
Duncan, Bruce, NHC
Elrod, Dan H., Esq., Miller & Martin
Frazier, James, CEO, Jamestown Regional Medical Center
Gammon, Katy, Director, Board of Licensure, Department of Health
Gooch, Warren, Esq., Kramer, Rayson
Grace, Frank, Esq., Waller, Lansden, Dortch & Davis
Lake, Victoria S., Director, Market Research, Jackson-Madison General Hospital
Leahy, Doug, M.D., Medical Director, Select-Knoxville UT
Locke, Jack, Evolved Digital Solutions
Longhouser, Michael, CFO, State of Franklin Healthcare
Looney, Kim Harvey, Esq., Waller, Lansden, Dortch & Davis
Lorio, Morgan P., M.D., Neuro Spine Solutions

Matijevich, Eli, Sr. Vice President, St. Mary's Health System
McReynolds, David, Vice President, Fort Sanders Regional Hospital
Merville, LaDonna, Hospital Alliance of Tennessee
Ockerman, Jeff, Stites & Harbison
Panek, Richard, CEO, State of Franklin Healthcare
Penny, Linda, State Comptroller's Office
Puri, Christopher, Esq., Boulton, Cummings, Conners & Berry, PLC
Raynes, Scott, CEO, NorthCrest Medical Center
Richardson, Mike, VP, Planning & Business Development, Covenant Health
Russell, Richard, THCA
Sassman, Greg, Vice President Development, Select Medical Corporation
Schmidt, Jim, CFO, NorthCrest Medical Center
Scidmore, Noel C., M.D., President, Cancer Center of McMinn County, PLLC
Scott, Gary, Vice President, UT Medical Center
Scott, Vanda, CEO, Select-Knoxville
Searcy, Jason, Planning Analyst, Wellmont Health System
Southernland, David, CEO, Woods Memorial Hospital
Stockstill, Todd, M.D., Mid-South Radiation Oncology Clinic
Stone, Whitney, Adams & Reese/Stokes, Bartholomew
Tymensky, Colleen, Jamestown Regional Medical Center
Taylor, Jerry W., Esq., Farris, Mathews, Branan, Bobango, Hellen & Dunlap, PLC
Thomas, Gary, Vice President, Licensure, University Health System
Trauger, Byron, Esq., Trauger & Tuke
Wellborn, John, Development Support Group
Wright, Will, Stites & Harbison

Vice Chair Atchley called the meeting to order at 8:30 a.m. in the Centennial Ballroom of the Holiday Inn Select, Nashville, Tennessee.

DIRECTOR'S ANNOUNCEMENTS

Melanie Hill, Executive Director, announced that both Maxim Healthcare Services-Knoxville, CN0506-047 and Maxim Healthcare Services-Johnson City, CN0507-060 were withdrawn.

CERTIFICATE OF NEED APPLICATIONS

Ms. Hill summarized the following Consent Calendar Application:

SOFHA Diagnostic Center - (Johnson City, Washington County) - Project No. CN0511-106

The relocation of an existing outpatient diagnostic center (ODC) from 219 Princeton Road, Johnson City (Washington County), TN 37601 to an unconstructed medical office building on an unaddressed site on the northeast side of Med Tech Parkway, Johnson City (Washington County), TN. The facility will be located across the street from Mountain States Wellness Center construction site. The project will be licensed as an ODC by the Department of Health. Project Cost \$6,837,124.00.

Present on behalf of the project were: Richard Panek, CEO; Michael Longhouser, CFO; and John L. Wellborn, Consultant.

Mr. Koella moved for approval of the project based on: 1) Need – The need is there as it is established and serving patients now; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care with licensing and the TennCare provisions. Dr. Handorf seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Troy, Lammert, Koella, Handorf, Weaver, Flowers, Collier, Jones, Atchley
NAY: None

Maxim Healthcare Services - Knoxville - (Knoxville, Knox County) - Project No. CN0506-047

Addition of the following counties: Blount, Claiborne, Cocke, Grainger, Hamblen, Jefferson, Monroe, Sevier and Union. The existing home health care service area of: Loudon, Anderson, Campbell, Scott, Morgan and Roane. Project Cost \$135,000.00.

WITHDRAWN

Maxim Healthcare Services - (Johnson City, Washington County) - Project No. CN0507-060

The establishment of a home care organization to provide non-Medicare home health care services in Greene, Sullivan and Washington counties. The parent office will be located at 105 KLM Drive, Suite 6, Johnson City (Washington County), TN 37615. Project Cost \$135,000.00.

WITHDRAWN

Milan General Hospital, Inc. - (Milan, Gibson County) - Project No. CN0510-089

The addition of ten (10) swing beds to two (2) existing swing beds. These beds will replace thirteen (13) existing skilled nursing beds. Upon approval, the thirteen (13) existing skilled nursing beds will be delicensed. Upon completion of the project, the number of licensed hospital beds increase from sixty (60) to seventy (70), swing beds will increase from two (2) to twelve (12), and skilled nursing beds will decrease from thirteen (13) to zero (0). Project Cost \$9,541.00. * These beds are not subject to the 125 nursing home bed pool.

Dan Elrod, Esq., representing the applicant, addressed the Agency. Present in support were: John Carruth, Administrator and Victoria S. Lake, Director, Market Research & Planning.

Dr. Handorf moved for approval of the project based on: 1) Need – The need is established by the current use; 2) Economic Feasibility – The project is economically feasible and cash reserves are available; and 3) The project does contribute to the orderly development of adequate and effective health care with the addition of beds as they are a TennCare provider and licenses are in order. Ms. Flowers seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Troy, Lammert, Koella, Handorf, Weaver, Flowers, Collier, Jones, Atchley
NAY: None

+Simultaneous Review - Wellmont Sapling Grove Imaging, LLC - (Bristol, Sullivan County) - Project No. CN0510-090 and Upright MRI Solutions - (Bristol, Sullivan County) - Project No. CN0510-093.

+Wellmont Sapling Grove Imaging, LLC - (Bristol, Sullivan County) - Project No. CN0510-090

The establishment of an outpatient diagnostic center (ODC), acquisition of a magnetic resonance imaging (MRI) unit, and initiation of outpatient MRI services in leased space. The applicant intends to make the ODC with MRI available for subleasing up to four (4) days per week to area physicians, one of which is Upright MRI Solutions, LLC, which has filed a simultaneous review application for an ODC with MRI services for one (1) day per week. Project Cost \$2,920,957.40.

Byron Trauger, Esq., representing the applicant, addressed the Agency. Barton Hove, CEO, and Morgan P. Lorio, M.D., Neuro Spine Solutions and Jason Searcy, Planning Analyst, Wellmont Health System spoke on behalf of the project.

+Upright MRI Solutions - (Bristol, Sullivan County) - Project No. CN0510-093

The establishment of an outpatient diagnostic center (ODC) limited to magnetic resonance imaging (MRI), and the initiation of fixed MRI services for outpatients one (1) day per week. The ODC will be established by leasing for one day per week the use of an ODC with Fonar Upright MRI, for which Wellmont Sapling Grove Imaging, LLC is seeking approval through simultaneous review. Project Cost \$683,000.00.

Frank Grace, Esq., representing the applicant, addressed the Agency. Morgan P. Lorio, M.D., Neuro Spine Solutions spoke on behalf of the project. John L. Wellborn, Consultant was present.

MOTIONS

+Wellmont Sapling Grove Imaging, LLC - (Bristol, Sullivan County) - Project No. CN0510-090

Mr. Koella moved for approval of the project based on: 1) Need – The need is clearly there from the volume and it will not adversely impact existing providers; 2) Economic Feasibility – The project is economically feasible with the cash reserves; and 3) The project does contribute to the orderly development of adequate and effective health care of medicine in Tennessee because of the licensing and the TennCare service as well as being the same cost as the traditional service. Dr. Handorf seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Troy, Lammert, Koella, Handorf, Weaver, Flowers, Collier, Jones, Atchley

NAY: None

+Upright MRI Solutions - (Bristol, Sullivan County) - Project No. CN0510-093

Ms. Troy moved for approval of the project based on: 1) Need – The need is evident; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care. Ms. Flowers seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Troy, Lammert, Koella, Handorf, Weaver, Flowers, Collier, Jones, Atchley

NAY: None

Cancer Center of McMinn County, PLLC - (Athens, McMinn County) - Project No. CN0510-091

The establishment of a ambulatory surgical treatment center (ASTC) limited to radiation therapy. The acquisition of a linear accelerator, and initiation of radiation therapy services, in approximately 6,000 square feet of space in a newly constructed building. Project Cost \$3,974,856.00.

Mr. Koella moved to move to heel of Agenda. Ms. Flowers seconded. Motion passed 9-0-0 by unanimous voice vote.

NorthCrest Medical Center - (Springfield, Robertson County) - Project No. CN0510-094

The renovation and expansion of the emergency department located on the hospital's campus. The number of licensed beds is not affected, and no new services will be initiated. Project Cost \$7,255,473.17.

Kim Harvey Looney, Esq., representing the applicant, addressed the Agency. Speaking on behalf of the project were Scott Raynes, CEO and Jim Schmidt, CFO.

Dr. Handorf moved for approval of the project based on: 1) Need – The need is established as they are the sole provider in the community in an antiquated building; 2) Economic Feasibility – The project is economically feasible and cash reserves are available; and 3) The project does contribute to the orderly development of adequate and effective health care as they are a TennCare provider and their licenses are in order. Ms. Weaver seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Troy, Lammert, Koella, Handorf, Weaver, Flowers, Collier, Jones, Atchley

NAY: None

Select Specialty Hospital -- Knoxville, Inc. - (Knoxville, Knox County) - Project No. CN0510-095

A replacement facility relocating eighty (80) long term hospital beds from three (3) existing Select Medical Corporation facilities in Knoxville, which will close following licensure of the new facility. (The Letter of Intent identified the relocation of ninety-three (93) beds, which was amended to eighty (80) beds in the application). The new replacement facility will be located on the UT Medical Center Campus at the intersection of Cherokee Trail and Old Cherokee Trail in a new hospital to be constructed on a site leased from UT Medical Center. The three existing facilities, containing ninety-three (93) beds, that will close are: Select Specialty Hospital-Knoxville, Inc., 1901 Clinch Ave., Knoxville, TN 37916 (35 beds); Select Specialty Hospital-North Knoxville,

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900 E. Oak Hill Ave., Knoxville, TN 37917 (33 beds) and Select Specialty Hospital-Knoxville UT Campus, 1924 Alcoa Highway, Knoxville, TN 37920 (25 beds). The proposed service area for the new long term hospital will remain the same as the existing service areas for the three (3) closing facilities. Other than the relocation of existing beds to the new site no health services will be initiated or discontinued. Project Cost \$27,630,762.

E. Graham Baker, Jr., Esq., representing the applicant, addressed the Agency. Speaking on behalf of the project were: Mike Brunson, M.D., Pulmonary Program Director, Select North Knoxville; John Beuerlein, M.D., Associate Medical Director, Select-Knoxville; Doug Leahy, M.D., Medical Director Select-Knoxville UT; Greg Sassman, Vice President-Development, Select Medical Corporation; and Vanda Scott, CEO, Select-Knoxville; Gary Thomas, Vice President, Licensure, University Health System; and Steve Covey, Select Specialty.

Speaking in opposition were: Eli Matijevich, Sr. Vice President, St. Mary's Health System; Dan Elrod, Esq., representing, Covenant Health; and David McReynolds, Vice President, Fort Sanders Regional Hospital. Present in opposition were: Jack Bryan, COO, St. Mary's Health System; Jeremy Biggs, Vice President, St. Mary's Health System; and Mike Richardson, VP, Planning & Business Development, Covenant Health.

Mr. Elrod provided summation for the opposition.

Mr. Baker rebutted.

Ms. Flowers moved for denial of the project based on: 1) Need – The need for the stand alone hospital has not been established. The applicant is ready to surrender thirteen (13) existing beds for this type of service in order to change economic circumstance that they find themselves in. Nearly one million people in this State are TennCare because they are Medicaid eligible. The promise to do better in the future does not meet the special needs of low income groups in the service area of this hospital. Additionally, we are to consider the extent to which Medicare, Medicaid and medically indigent patients will be served and I think in that situation we have to look not only how they will be served but how they have been served and I conclude that there is little interest on the behalf of the applicant in serving the Medicaid, Medicare and indigent patients; 2) Economic Feasibility – The project's economical feasibility falls short again because of the reasonableness of consolidating this to one (1) hospital; and 3) There will be no orderly development of adequate and effective health care and in fact it would become more disorderly because it will consolidate this care into one (1) hospital and lessen the ability of the referring hospitals to try to induce some economic competition to the way that they reimburse the applicant. Lastly, the care of the patient should be one the most important issues, but the hospital within the hospital, at the applicant's own statement, is the better professional standard. Mr. Jones seconded the motion. The motion CARRIED [7-2-0]. **DENIED**

AYE: Troy, Lammert, Handorf, Weaver, Flowers, Collier, Jones

NAY: Koella, Atchley

Cancer Center of McMinn County, PLLC - (Athens, McMinn County) - Project No. CN0510-091

The establishment of a ambulatory surgical treatment center (ASTC) limited to radiation therapy. The acquisition of a linear accelerator, and initiation of radiation therapy services, in approximately 6,000 square feet of space in a newly constructed building. Project Cost \$3,974,856.00.

Dan Elrod, Esq., representing the applicant, addressed the Agency. Noel C. Scidmore, M.D., President Soke on behalf of the project and Ed Day, Consultant was present.

David Southerland, CEO, Woods Memorial Hospital opposed.

Mr. Elrod rebutted.

Mr. Southerland summated opposition.

Mr. Elrod summated support.

Ms. Troy moved for approval of the project based on: 1) Need – There is a need and it has been demonstrated by the applicant; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care with restrictions. **CONDITION: Any imaging equipment designated for use in the Cancer Center should be limited to treatment planning in target treatment areas for radiation therapy treatments using linear accelerator equipment only.** Dr. Handorf seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Troy, Lammert, Koella, Handorf, Weaver, Flowers, Collier, Jones, Atchley
NAY: None

GENERAL COUNSEL'S REPORT

Reid Brogden summarized the following modification requests:

Jamestown Regional Medical Center - (Jamestown, Fentress County) - Project No. CN0210-098A

Request for a nine (9) month extension of the expiration date from March 1, 2006 to December 1, 2006. The original Certificate of Need was approved January 22, 2003 for the renovation and expansion of the Emergency and Surgical Departments. The construction included three (3) major operating room suites (one (1) which accommodates all orthopedic procedures), and eight (8) emergency exam rooms, two (2) of which will be equipped for cardiac treatment and trauma care.

James P. Frazier, III, CEO, addressed the Agency on behalf of Jamestown Regional Medical Center. Present in support were Scott Bowers and Colleen Tymensky.

Mr. Koella moved for approval of the request to extend the expiration from March 1, 2006 to December 1, 2006. Dr. Handorf seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Troy, Lammert, Koella, Handorf, Weaver, Flowers, Collier, Jones, Atchley
NAY: None

University Ambulatory Surgical Center, L.L.C. - (Knoxville, Knox County) - Project No. CN9908-061A

Request to remove condition from Certificate of Need requiring the hospital to surrender six (6) operating rooms as the result of the grant of an ambulatory surgical treatment center (ASTC) to University Ambulatory Surgery Center, LLC.

Jerry W. Taylor, Esq., representing the applicant, addressed the Agency. Gary Scott, Vice President, was present.

Mr. Koella moved for approval of the request to remove the restriction on the six (6) operating rooms from the hospital and it will be stricken from the Certificate of Need so that the rooms can be reused and reopened. The project is economically feasible and it does contribute to the orderly development with the increased caseload at the hospital and the growing county needs it. Ms. Troy seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Troy, Lammert, Koella, Handorf, Weaver, Flowers, Collier, Jones, Atchley
NAY: None

Ms. Troy and Dr. Handorf recused

REQUEST FOR AGENCY DETERMINATION

Mid-South Radiation Oncology Clinic - (Memphis, Shelby County) - Project No. CN9607-050A

Request for Agency determination that the clinic be allowed to proceed with licensure as an ambulatory surgical treatment center (ASTC).

Michael D. Brent, Esq., representing the applicant, addressed the Agency. Present on behalf of the request were: Bill Church, Administrator, Dr. Todd Stockstill and Christopher Puri, Esq.

Chair moved that no action be taken at this time.

OTHER BUSINESS

Audit Charges

Ms. Hill stated that Mr. Morgan had reviewed the Agency's request for additional information and that it would be forwarded.

Private Duty Home Health Limitation

Ms. Hill met with the Department of Health and home health industry representatives regarding private duty home health agencies. Ms. Katy Gammon, Director of the Division of Health Care Facilities has confined the following Certificate of Need condition can be enforced:

Condition: Limited to licensed-only, non-certified home health services. This Certificate of Need is issued based upon the express representation by the applicant that it will not seek or receive certification from Medicare/Medicaid for any home health service.

CURRENT REPORTS

Statistical Reports

The reports were accepted into the record.

Finance, Ways and Means Committee Reports

The reports were accepted into the record.

Minutes

The minutes of the December 14, 2005, meeting was accepted by unanimous voice vote.

ADJOURNMENT

There being no further business, the meeting adjourned.

Melanie M. Hill, Executive Director

MMH/mab